



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, Associate Planner

Date: November 25, 2014

Re: Case ZB 2014-16 (UV) | Dustin Royer/RAMS, LLC | 70 W. Madison Street

REQUEST:

Case ZB 2014-16 (UV)...70 W. Madison Street. A request for a use variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 16 and Article 7, Chapter 3, to allow for a single-family residential use and a new detached residential garage in the Mixed-use, Downtown Center (MXD) zoning district.

PURPOSE OF STANDARD:

The "MXD," Mixed-Use: Downtown Center zoning district is intended to provide for the continued viability of the historic central business district. This district is also intended to accommodate and support the use of existing structures within the downtown. It is further intended to permit the continued, contextually appropriate development of the area through re-use and infill development.

CONSIDERATIONS:

Current Use

1. The subject property of 70 W. Madison Street has been vacant since at least the flood in 2008, when the structure was badly damaged.
2. For a period of time, prior to the flood, a portion of the first floor was utilized as a dentistry office. The remainder of the structure was used as a single residential unit; including a portion of the first floor, all of the second floor, and storage in the basement.
3. According to the petitioner, the first floor has two rooms which are separate and were used for the dental office. There is also a kitchen and a living area on the first floor, with three bedrooms and a bathroom on the second floor.

Proposed Use

4. Petitioner is proposing to utilize the entire structure and property as a single-family residential use.
5. Petitioner is proposing to add a 20' x 22' detached residential garage near the back of the property.

Single-family Residential Use

6. According to Article 3, Chapter 16 of the City of Franklin Zoning Ordinance, residential uses are permitted in the Mixed-use, Downtown Center (MXD) zoning district; however, residences are only allowed on upper levels, as part of a mixed-use structure.
7. According to Article 7, Chapter 3 of the City of Franklin Zoning Ordinance, a residential detached garage is listed as a non-permitted use on properties within the MXD: Mixed-use, Downtown Center zoning district.

Comprehensive Plan

8. The 2013 Comprehensive Plan, Future Land Use Map, identifies this area as Downtown. "Future land use in the downtown area should support the function of the area as a unique focal point and gathering place for the Franklin community. Downtown Franklin should serve the City as a dynamic activity center that includes retailers, professional offices, residences, civic groups, government facilities, restaurants and bars, and service providers. Future land uses in the downtown should contribute to the establishment of an activity center with a mix of land uses which enhance the current community character that the downtown provides."
9. The 2013 Comprehensive Plan goes on to establish the Design Features of the "Downtown": "The character of the downtown, expressed through its historically significant architecture, should be maintained and enhanced as both a reminder of Franklin's rich past, and a symbol of its community identity and character. The downtown area and its surrounding core neighborhoods embody the traditional mixed-use, compact development characteristics that are encouraged in new construction in the community. Design features in the downtown should be consistent with the historically significant character and architecture present in the area. The downtown must remain a walkable area, with new construction being consistent in scale and setback to the area's current character. Design features should be human scale and include window displays, awnings, street furniture, buildings built to the sidewalk, decorative street lights, and pedestrian-oriented business signs."

Zoning Ordinance

10. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
11. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
12. The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: RTN, Residential, Traditional Neighborhood
South: MXD, Mixed-Use, Downtown Center
East: MXD, Mixed-Use, Downtown Center
West: MXD, Mixed-Use, Downtown Center

Surrounding Land Use:

North: Residential (Single-family)
South: Future Old Post Brewpub
East: Residential (Multi-family)
West: Mixed, Commercial/Residential

CRITERIA FOR DECISIONS – USE VARIANCE:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all use variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA – USE VARIANCE

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

The approval of the use variance will not be injurious to the public health, safety, or general welfare of the community, as single-family residential uses are common to the north and west of the subject property. Additionally, only a small portion of the current structure was ever used for a commercial use; the remainder has always been single-family use. Approval of the entire structure and property to be used exclusively as a single-family residential use, including the proposed 20' x 22' detached residential garage, will not be injurious to the general welfare in any way.

- 2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

Approval of the use variance will not substantially affect the use and value of the area adjacent to the property included in the variance. In fact, approval of this proposal could affect the adjacent property values in a substantially *positive* manner. The subject property suffered significant damage in the 2008 flood and has deteriorated and sat vacant ever since. Redevelopment to a habitable single-family property could reverse the adverse effect the property has had on adjacent properties since the flood.

- 3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

The strict application of the ordinance will result in a practical difficulty. Although the property was previously occupied as mixed use, due to the layout of the floor plan, the flood damage in 2008, and current building code laws for commercial/mixed-uses, there is a practical difficulty in converting the house to a commercial and/or mixed-use.

- 4. Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship, as the petitioner would suffer a significant hardship in converting the house to a commercial use.

- 5. Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.***

Staff Finding:

The granting of the use variance does not interfere with the Comprehensive Plan, as the future land use map classifies this area as Downtown. In the description of the Downtown area, the Comprehensive Plan states that residences should serve as part of the mix of land uses in the Downtown Franklin activity center.

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **approval** of the petition with the following conditions:

- Improvement Location Permit(s) shall be obtained prior to construction, when applicable, including the proposed detached garage.
- The variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date granted.